

ORIGINAL

MEJ

JS 44 CAND (Rev. 12/11)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Malika Miller

(b) County of Residence of First Listed Plaintiff County of Contra Costa
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Tammy Hussin, 6404 Merdin Drive, Carlsbad, CA 92011; (855) 301-2300
ext. 5514; of counsel to Lemberg & Associates, LLC, 1100 Summer
Street, Third Floor, Stamford, CT 06905; (203) 653-2250

DEFENDANTS

USCB, Inc.

County of Residence of First Listed Defendant County of Los Angeles
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

BY FAX

BASIS OF JURISDICTION (Place an "X" in One Box Only)

- U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input checked="" type="checkbox"/> 460 Deposition <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1692

Brief description of cause:
Violations of the Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$
25,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA

DATE 02/03/2012

SIGNATURE OF ATTORNEY OF RECORD /s/ Tammy Hussin

ORIGINAL

BY FAX

1 Tammy Hussin (Bar No. 155290)
2 Lemberg & Associates LLC
3 6404 Merlin Drive
4 Carlsbad, CA 92011
5 Telephone (855) 301-2100 ext. 5514
6 thussin@lemborglaw.com

7 **WELAND**

8 Lemberg & Associates, LLC
9 1100 Summer Street
10 Stamford, CT 06905
11 Telephone: (203) 653-2250
12 Facsimile: (203) 653-3424

13 Attorneys for Plaintiff, Malika Miller

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 Malika Miller,
17 Plaintiff,
18 vs.
19 USCB, Inc.; and DOES 1-10, inclusive,
20 Defendants.

FILED

FEB - 3 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

E-filing

C12-00561 MEJ

Case No.:

COMPLAINT FOR DAMAGES
1. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. § 1692 ET. SEQ;
2. VIOLATION OF FAIR DEBT
COLLECTION PRATICES ACT,
CAL.CIV.CODE § 1788 ET. SEQ.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

1 For this Complaint, the Plaintiff, Malika Miller, by undersigned counsel, states
2 as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.
9

10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

11 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
12 Defendants transact business here and a substantial portion of the acts giving rise to
13 this action occurred here.
14

15 **PARTIES**

16 4. The Plaintiff, Malika Miller (hereafter "Plaintiff"), is an adult individual
17 residing in Concord, California, and is a "consumer" as the term is defined by 15
18 U.S.C. § 1692a(3).
19

20 5. Defendant USCB, Inc. ("USCB"), is a California business entity with an
21 address of 125 S Vermont Avenue, Los Angeles, California 90004-5904, operating as
22 a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. §
23 1692a(6).
24
25
26
27
28

1 6. Does 1-10 (the "Collectors") are individual collectors employed by
2 USCB and whose identities are currently unknown to the Plaintiff. One or more of
3 the Collectors may be joined as parties once their identities are disclosed through
4 discovery.
5

6 7. USCB at all times acted by and through one or more of the Collectors.
7

8 **ALLEGATIONS APPLICABLE TO ALL COUNTS**
9

10 **A. The Debt**

11 8. The Plaintiff allegedly incurred a financial obligation (the "Debt") to
12 Kaiser Hospital (the "Creditor").
13

14 9. The Debt arose from services provided by the Creditor which were
15 primarily for family, personal or household purposes and which meets the definition
16 of a "debt" under 15 U.S.C. § 1692a(5).
17

18 10. The Debt was purchased, assigned or transferred to USCB for collection,
19 or USCB was employed by the Creditor to collect the Debt.
20

21 11. The Defendants attempted to collect the Debt and, as such, engaged in
22 "communications" as defined in 15 U.S.C. § 1692a(2).
23

24 **B. USCB Engages in Harassment and Abusive Tactics**
25

26 12. Within the last year, USCB contacted Plaintiff in an attempt to collect the
27 Debt.
28

1 13. On several occasions, USCB called Plaintiff's friend, Franswan Clavelle,
2 and left pre-recorded messages stating that the communication was from a debt
3 collector in an attempt to collect a Debt. The message did not contain the name of the
4 person who allegedly owed the Debt.
5

6 14. Assuming that calls were addressed to him, Plaintiff's friend returned
7 USCB's call and was informed that USCB was attempting to collect the Debt from
8 Plaintiff.
9

10 15. The disclosure of the Debt to Plaintiff's friend caused Plaintiff a great
11 deal of humiliation and embarrassment to Plaintiff.
12

13 16. Plaintiff then contacted USCB. USCB's collector was rude and
14 aggressive with Plaintiff and terminated the call while Plaintiff was in a mid-sentence.
15

16 17. USCB failed to inform Plaintiff of her rights under state and federal law
17 by written correspondence within five days after initial contact, including the right to
18 dispute the Debt.
19

20 **C. Plaintiff Suffered Actual Damages**
21

22 18. The Plaintiff has suffered and continues to suffer actual damages as a
23 result of the Defendants' unlawful conduct.
24
25
26
27
28

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.

22. The Defendants informed third parties of the nature of Plaintiff's debt and stated that the Plaintiff owed a debt, in violation of 15 U.S.C. § 1692b(2).

24. The Defendants used profane and abusive language when speaking with the consumer, in violation of 15 U.S.C. § 1692d(2).

25. The Defendants failed to send the Plaintiff a validation notice stating the amount of the debt, in violation of 15 U.S.C. § 1692g(a)(1).

1 26. The Defendants failed to send the Plaintiff a validation notice stating the
2 name of the original creditor to whom the debt was owed, in violation of 15 U.S.C. §
3 1692g(a)(2).
4

5 27. The Defendants failed to send the Plaintiff a validation notice stating the
6 Plaintiff's right to dispute the debt within thirty days, in violation of 15 U.S.C. §
7 1692g(a)(3).
8

9 28. The Defendants failed to send the Plaintiff a validation notice informing
10 the Plaintiff of a right to have verification and judgment mailed to the Plaintiff, in
11 violation of 15 U.S.C. § 1692g(a)(4).
12

13 29. The Defendants failed to send the Plaintiff a validation notice stating the
14 Plaintiff's right to request the name and address of the original creditor, in violation of
15 15 U.S.C. § 1692g(a)(5).
16

17 30. The foregoing acts and omissions of the Defendants constitute numerous
18 and multiple violations of the FDCPA, including every one of the above-cited
19 provisions.
20

21 31. The Plaintiff is entitled to damages as a result of the Defendants'
22 violations.
23
24
25
26
27
28

COUNT II
VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT, Cal. Civ. Code § 1788 et seq.

32. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

33. The Rosenthal Fair Debt Collection Practices Act, California Civil Code section 1788 et seq. ("Rosenthal Act") prohibits unfair and deceptive acts and practices in the collection of consumer debts.

34. USCB, Inc., in the regular course of business, engages in debt collection and is a "debt collector" as defined by Cal. Civ. Code § 1788.2(c).

35. The Defendants failed to comply with the provisions of 15 U.S.C. § 1692, *et seq.*, in violation of Cal. Civ. Code § 1788.13(e).

36. The Defendants did not comply with the provisions of Title 15, Section 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

37. The Plaintiff is entitled to damages as a result of the Defendants' violations.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;

- 1 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A)
2 against the Defendants;
3
4 C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.
5 § 1692k(a)(3) against the Defendants;
6
7 D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
8
9 E. Statutory damages of \$1,000.00 for knowingly and willfully committing
10 violations pursuant to Cal. Civ. Code § 1788.30(b);
11
12 F. Actual damages from the Defendants for the all damages including
13 emotional distress suffered as a result of the intentional, reckless, and/or
14 negligent FDCPA violations and intentional, reckless, and/or negligent
15 invasions of privacy in an amount to be determined at trial for the
16 Plaintiff;
17
18 G. Punitive damages; and
19
20 H. Such other and further relief as may be just and proper.

21 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: February 3, 2012

TAMMY HUSSIN

By: /s/ Tammy Hussin
Tammy Hussin
Lemberg & Associates, LLC
Attorney for Plaintiff Malika Miller